

The claimant requests payment of temporary total disability benefits for a period of September 24, 1993 through October 20, 1993, and payment of medical treatment provided by Dr. Charles C. Craig during the same period. Administrative Law Judge James R. Ward, in his Preliminary Hearing Order dated September 1, 1994, granted the requested benefits.

From this Preliminary Hearing Order, the respondent seeks review by the Appeals Board raising the following issues:

- (1) Whether timely notice was given, and;
- (2) Whether timely written claim was served on respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the evidence presented and for preliminary hearing purposes, the Appeals Board finds as follows:

Claimant previously litigated the identical issues and facts of this case on the same record, except for cross examination of the claimant, in Docket No. 183,054, before Administrative Law Judge George R. Robertson. Administrative Law Judge Robertson denied claimant's requested benefits in a Preliminary Hearing Order dated March 3, 1994. This Order was appealed to the Appeals Board and in an Order dated September 2, 1994, the Appeals Board found the claim to be compensable and ordered the requested benefits.

Since benefits have been previously ordered and are presently being paid in Docket No. 183,054, the parties herein, during oral argument, mutually agreed for preliminary hearing purposes only, that the Preliminary Hearing Order of Administrative Law Judge James R. Ward, dated September 1, 1994, in this case, Docket No. 190,719, should be reversed.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board, by agreement of the parties, that the Preliminary Hearing Order of Administrative Law Judge James R. Ward, dated September 1, 1994, ordering the respondent to provide temporary total disability benefits and to pay for medical treatment provided the claimant, is hereby reversed in all respects.

IT IS SO ORDERED.

Dated this ____ day of November, 1994.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

- c: Steven R. Wilson, Wichita, Kansas
 Kirby A. Vernon, Wichita, Kansas
 James R. Ward, Administrative Law Judge
 George Gomez, Director